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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,510	02/12/2004	Elizabeth Kenny	57573.010001	5248

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GREENBERG TRAURIG, P.C.  
Suite 2500  
77 West Wacker Drive  
Chicago, IL 60601-1273

EXAMINER

ABBOTT, YVONNE RENEE

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



<b>Office Action Summary</b>	<b>Application No.</b> 10/777,510	<b>Applicant(s)</b> KENNY, ELIZABETH	
	<b>Examiner</b> Yvonne R. Abbott	<b>Art Unit</b> 3644	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2/12/04.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/23/04</u> . | 6) <input type="checkbox"/> Other: _____  |



## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the teaser is provided with a ***variety of depending objects*** of interest ..." of claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.



***Claim Rejections - 35 USC § 112***

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 5, it is not understood what is being claimed in that the last phrase "a teaser portion, which is affixed at a first end of the attachment portion, and further at a second end of which the teaser is affixed" is confusing. Clarification is needed before this claim can be treated on the merits.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 4, 6, 8, 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Bremm (2004/0194733). Bremm shows an animal leash system comprising a cuff (50) operably configured to be releasably affixed about a human limb; a tether (12) affixed at a first end to the cuff; and a teaser (24) affixed to the second end of the tether; wherein Applicant's disclosure admits that the teaser may be "any other object of a suitable shape, configuration, material and appearance as would be attractive or



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interesting to the type of animal with which device is intended to be used" (Applicant's specification, page 10); accordingly an object which teases is considered to be relative, and when not fastened to the animal, the "teaser" (24) may be used as a ring or loop on which an animal tugs and pulls; the cuff comprises a thin, elongated web having opposed first and second ends, and opposed first and second surfaces; and cooperative fastening elements, one fastening element disposed on a first surface of the web at a first end thereof, and the other fastening element disposed on a second surface of the web at a second end thereof (see page 2, paragraph [0017]); wherein cooperative releasable fastener elements in the form of fastener (20) and ring (22) affixed to the tether and the teaser, respectively so that the teaser may be removed from the tether and replaced by another teaser; wherein the teaser is considered to be made of a relatively smooth material.

5. Claims 1, 4, 6-8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kisko et al. (6,095,093). Kisko et al. show an animal leash system comprising a cuff or sleeve (14) operably configured to be releasably affixed about a human limb; a stretchable tether (34) affixed at a first end to the cuff; and a teaser (38,40) affixed to the second end of the tether; wherein Applicant's disclosure admits that the teaser may be "any other object of a suitable shape, configuration, material and appearance as would be attractive or interesting to the type of animal with which device is intended to be used" (Applicant's specification, page 10); accordingly an object which teases is considered to be relative, and when not fastened to the animal, the "teaser" (24) may



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be used a s ring or loop on which an animal tugs and pulls; the cuff comprises a thin, elongated web having opposed first and second ends, and opposed first and second surfaces; and cooperative fastening elements (16), one fastening element disposed on a first surface of the web at a first end thereof, and the other fastening element disposed on a second surface of the web at a second end thereof; wherein cooperative releasable fastener elements in the form of fastener (36) affixed to the tether and the teaser, respectively so that the teaser may be removed from the tether and replaced by another teaser; wherein the teaser is considered to be made of a relatively smooth material.

6. Claims 1, 6, 7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Swendseid (5,505,161). Swendseid shows a pet toy comprising a cuff (32) operably configured to be releasably affixed about a human limb; a stretchable tether (20) (col. 2, lines 6-8) affixed at a first end to the cuff; and a teaser (16), wherein the teaser has a shape that is at least one of ball-like, elongated, or branched (col. 2, lines 10-12).

7. Claims 1, 6, 7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahashi et al. (5,357,904). Takahashi et al. show an animal leash system comprising a cuff or sleeve operably configured to be releasably affixed about a human limb and mounted at the top of a stretchable tether (6) affixed at a first end to the cuff; and a teaser (2,7,8) affixed to the second end of the tether; wherein the teaser has a shape that is ball-like, elongated or branched; and wherein the teaser is fabricated from at least one of a smooth, rubbery, furry feathery, fuzzy or spongy material.



***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 6, 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Bruler (2,194,736). De Bruler shows an animal exercise and amusement device comprising a cuff (24,32), a tether (22,30) attached to the cuff and having a stretchable portion, and a teaser (28, 34); wherein the teaser has a shape that is ball-like, elongated or branched; and wherein the teaser is fabricated from at least one of a smooth, rubbery, furry feathery, fuzzy or spongy material. De Bruler, however, does not show that the cuff, tether and teaser are separately affixed parts. It has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

10. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bremm (2004/0194733). Bremm discloses that belt (50) may be in the form of a weight lifter's belt, thus it would have been obvious to provide that compartments of the belt contain weighted material since it is well known that weight lifter belts contain weighted material. With respect to claim 3, it is disclosed that a fastening strap is affixed to the cuff, the fastening strap having a first looped end and a second free end; cooperative fastening elements, affixed to a surface of the fastening strap, proximate



the first looped end and the second free end thereof, respectively; and a buckle, captured by the first looped end of the fastening strap, whereby the cuff may be wrapped about a human limb, and releasably affixed by passing the second free end of the fastening strap through the buckle, and turned upon itself, to bring the cooperative fastening elements against one another in releasably fastening contact (page 2, paragraph [0017]).

11. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kisko et al. (6,095,093) in view of Winston (4,997,183). Kisko et al. show an animal leash system comprising a cuff or sleeve (14) operably configured to be releasably affixed about a human limb; a stretchable tether (34) affixed at a first end to the cuff; and a teaser (38,40) affixed to the second end of the tether; additionally, the fastening mechanism of Claim 3 is disclosed. Kisko et al., however, do not disclose that the cuff comprises compartments containing weighted material. Winston teaches a weighted cuff assembly to be affixed to a human limb having sacks or compartments (14) which contain weights (12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the cuff of Kisko et al., to be used while the pet owner walks, jogs, runs (i.e. exercise), additionally contain weights as taught by Winston, to provide additional training and exercise as desired.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bremm in view of Noguero (6,422,177). Bremm shows a device (24) capable of use as a teaser, however it is not shown that the teaser is provided with a variety of depending

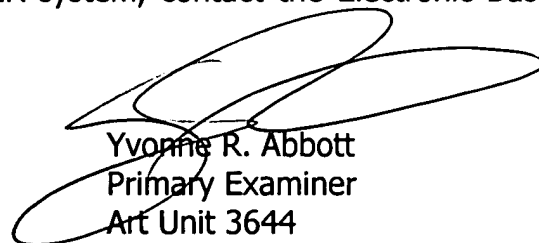


objects being shiny, reflective, fluorescent, phosphorescent, transparent or translucent. Noguero teaches the attachment of a variety of depending objects to a collar which is capable of use as a teaser. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the collar of Bremm have decorative attachments as taught by Noguero in order to alter the appearance of the collar, or distinguish the collar from others.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (703)308-2866. The examiner can normally be reached on Mon-Thurs 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (703)305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott  
Primary Examiner  
Art Unit 3644